

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>CHARLENE CARTER,</b>	§	
	§	
<b>Plaintiff,</b>	§	<b>CIVIL ACTION NO.</b>
	§	
<b>vs.</b>	§	<b>3:17-cv-02278-B</b>
	§	
<b>TRANSPORT WORKERS UNION OF AMERICA, LOCAL 556,</b>	§	<b>JURY DEMANDED</b>
	§	
<b>Defendant.</b>	§	

**DEFENDANT TWU - LOCAL 556'S MOTION TO DISMISS**

Defendant TRANSPORT WORKERS UNION OF AMERICA, LOCAL 556 ("TWU 556", "Local 556" or "Defendant") asserts that, despite Plaintiff's attempt to cure its pleading defects, its First Amended Complaint and Second Amended Complaint lack factual allegations necessary to support an actionable claim, as required by Rule 8, F.R.C.P. Because Plaintiff has yet again failed to state a claim upon which relief can be granted, Defendant Local 556 moves that the Second Amended Complaint be dismissed pursuant to Rule 12(b)(6), F.R.C.P.

The only substantive change from Plaintiff's First Amended Complaint to their Second Amended Complaint is the addition of religious discrimination claims under Title VII of the Civil Rights Act of 1964, but these claims are not asserted against Local 556. As such, there is no substantive change to Defendant Local 556's original Motion to Dismiss.

Pursuant to this Court's instruction, Defendant Local 556 is reasserting their Original Motion to Dismiss and Briefing. Due to a calendaring error regarding different response deadlines under FRCP 12 and 15, Plaintiff now re-files this Motion to Dismiss. No prejudice or harm has been caused to Plaintiff by this two day delay as this matter has already been fully briefed.

**GROUND FOR DISMISSAL**

1. Plaintiff Carter is not an employee of Defendant Local 556 and thus cannot assert retaliation claims. Retaliation claims require an adverse employment action by the employer—Southwest Airlines.
2. Plaintiff Carter fails to plead any facts suggesting that Local 556 failed to meet its duty of fair representation.

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**COUNSEL FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon counsel for Plaintiff via the U.S. District Court, Northern District's CM/ECF system on July 11, 2018:

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